

HARBOR MANAGEMENT ORDINANCE TOWN OF TREMONT

I. PURPOSE

The purpose of this Ordinance is to establish and maintain order for the arrangement and utilization of the mooring areas, public landings, boat ramps, harbor channels and related properties in the Town of Tremont, herein described, in a manner that will best serve the interests of the citizens of Tremont and the boating public.

II. AUTHORITY

This Ordinance is adopted under the authority granted under Title 38 M.R.S.A., sub-chapter 1, Sections 1-6, et seq. as amended, and the Home Rule provisions of the Constitution of the State of Maine.

III. AMENDMENTS

The effective date of this Ordinance or any amendments thereto shall be the day immediately following its/their adoption.

This Ordinance shall be fully implemented as soon as practicable.

IV. SUPERSEDURE

The adoption of this Ordinance hereby repeals and supersedes all conflicting provisions of all ordinances adopted prior to the effective date of this Ordinance.

V. RECORDING

A copy of this Ordinance, certified by the Town Clerk, shall be filed with the Hancock County Registry of Deeds.

VI. VALIDITY AND SEPARABILITY

Should any section or provisions of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provisions of this Ordinance.

VII. AMENDMENTS

This Ordinance may be amended in part or in whole by a majority vote of the citizens of the Town at a regular or special Town Meeting.

VIII. APPLICABILITY

The provisions of this Ordinance shall apply to activities occurring within or directly affecting all mooring and berthing locations in Tremont.

IX. HARBOR COMMITTEE

A. **Appointment.** The Board of Selectmen shall appoint a committee of at least 7 individuals familiar with the harbors and their activities, as follows:

1. Two public members shall be commercial fishermen;
2. One public member shall be a representative of resident boat storage/repair business using the harbors;
3. One public member shall be a riparian property owner; and
4. Three members shall be representatives at large from the Town of Tremont.
5. Any member who misses three consecutive Harbor Committee meetings shall submit a letter of resignation to the Board of Selectmen.

B. **Duties.** The Harbor Committee shall:

1. Plan the development and establish policy for Tremont harbors.
2. Resolve conflicts that may arise as a result of this Harbor Ordinance regarding the use of the harbors and their facilities.
3. Recommend rules and regulations for use of the harbors.
4. Recommend mooring and wharf fees to cover the cost of registration, harbor and wharf management.
5. Recommend individuals to the Board of Selectmen for the position of Harbor Master.
6. Review the activities of the Harbor Master.
7. Approve the Harbor Master's assignment of mooring locations.
8. Establish a time schedule for the original implementation of this Ordinance.

C. **Term.** Each member shall be appointed for a 2-year term except that 4 of the first 7 members shall be appointed for 1 year.

D. **Meetings.** The Committee shall meet every other month unless the Committee agrees to meet more frequently.

E. **Quorum.** A majority of the members appointed to the Committee shall constitute a quorum.

F. **Vote.** The Committee decisions will be made by vote of a majority of members present and voting.

X. HARBOR MASTER

A. **Appointment** The Harbor Master shall be appointed by the Board of Selectmen upon a recommendation by the Harbor Committee.

B. Duties. The Harbor Master shall:

1. Enforce the provisions of the Harbor Ordinance.
2. Provide advice and information to the Harbor Committee.
3. Assign temporary and permanent berthing and mooring locations within the harbors.
4. Maintain records of wharf permits and mooring berthing assignments.
5. Carry out responsibilities delegated by state and federal agencies.

C. Term. The Harbor Master shall serve for a 1-year term at the pleasure of the Board of Selectmen.

D. Compensation. The Harbor Master's compensation shall be set by the Board of Selectmen.

XI. MOORINGS

A. Placement of Moorings. No person shall place a mooring or mooring buoy of any type within the boundaries of Tremont waters without the written permission of the Harbor Master. Initial placement and relocation of moorings must be done by the authority of the Harbor Master. It shall be the responsibility of the owner.

B. Inspection of Moorings. Moorings shall be inspected at least biennially. Defects shall be corrected within a time period determined by the Harbor Master. Failure to correct defects will result in loss of mooring assignment.

C. Designation of Mooring Space. The Harbor Master shall designate mooring spaces and shall maintain a mooring and traffic plan of the anchorage areas indicating location of moorings and size of boats. A copy of this map will be kept on file at the Town Office.

D. Assignment of Location.

1. On or before March 17 of each year, the Harbor Master shall approve or disapprove mooring locations.
2. On or before April 1 of each year, the Harbor Master shall issue registrations for each approved application and have available a diagram showing the location of all moorings for vessels and lobster cars issued a registration in Tremont.
3. Each registration shall indicate the mooring fee and the requirements that it be paid to the Town at the time of registration.
4. No later than May 1 of each year, any person adversely affected by the assignment of mooring locations may appeal to the Harbor Committee whose decision is final.
5. Area D, located between the A Pool and B Pool, shall be marked as deemed appropriate by the Harbor Master and shall be limited to the mooring of lobster cars. Space in this area is on a first come, first served basis. A waiting list, as provided for vessel moorings, shall be maintained by the Harbor Master. Each lobster car shall be considered as one mooring and shall be subject to the then current application, registration and fee provisions for vessel moorings.

E. Mooring Identification

1. Vessel Moorings. Such names shall be legible at all times All moorings shall have their registration number permanently and clearly affixed thereon. Such registration numbers shall be visible at all times. The Harbor Master may at any time examine any mooring or mooring line to determine compliance.
2. Lobster cars. All lobster cars shall have engraved, in two locations, directly on a main visible timber, the owner's initials and lobster license number and shall be marked with reflectors.
3. Maximum Lobster car size 16'x 24'.

F. Mooring Size All moorings set shall be of sufficient size to hold the vessel for which it is used. An "adequate mooring" shall be defined by the Harbor Master, or by the Harbor Committee.

G. Mooring Floats Mooring floats shall be permitted in areas approved by both the Harbor Master and Harbor Committee. Application for permits shall be the same as for a mooring, all other provisions pertaining to moorings shall be applicable.

XII. REGISTRATION

A. Application. All moorings shall be registered annually. Application forms for renewal of mooring permits will be mailed by February 1st of each year to existing mooring permit holders. These mooring renewal applications must be returned to the Harbor Master no later than April 1st. All new mooring applications will be considered on an individual basis after that date.

B. Information. Each application must indicate:

1. Applicant's name and address.
2. Name of vessel.
3. Name and address of vessel owner.
4. Vessel documentation and/or registration number.
5. Length, draft, beam of vessel.
6. Desired mooring location.
7. Whether the application is a renewal.
8. Percentage of income derived from activities for which the vessel is used.
9. Whether the applicant is a riparian owner.
10. Date mooring placed (if renewal) _____ and by whom _____.
11. Type of mooring: Rock___ Mushroom___ Cable___
Other (describe)_____
12. Weight of mooring stone/mushroom _____
13. Bottom chain, top chain and pennant sizes and lengths.
14. Buoy___ Pole___

C. 1. Application and registration Fee. The initial registration application and annual registration application for both vessels and lobster cars shall be accompanied by a fee of \$20.00 \$40.00. New moorings may not be installed or used until the fee is received and the application is approved by the Harbor Master. All fees

are payable to the Town of Tremont. Each separate lobster car will be considered to have one mooring, covering all moorings used to hold that car. All fees collected by the Harbor Master or Town from the registration or use of moorings are to be used for Harbor Management.

2. All mooring renewal registration fees not paid by June 30 of the year billed will be charged a late fee of \$20. Mooring locations and numbers that have not been renewed in the calendar year billed may be reassigned to those on our waiting list.

3. No mooring registration will be given or renewed for those persons with unpaid Harbor or Wharf Ordinance violations.

D. Priority

1. Assignment of mooring sites shall be made by the Harbor Master on a one boat, one mooring basis and in accordance with the provisions set forth in this section and consistent with provisions of Title 38 MRSA Sec. 3.

a. In Federal Project Area, the Harbor Master shall assign all moorings using the Open-to-All on-Equal-Terms basis (see Definitions).

b. In all other areas, the Harbor Master shall assign one mooring site to each riparian owner who prior to January 1, 1987 owned shore rights of at least 100 ft. of frontage, so long as that riparian owner is the master or owner of a boat or vessel and such a mooring practicable. Such mooring site shall be either temporary or permanent, as requested by the riparian owner and such mooring site shall front the land of the riparian owner, if so requested, but only in the event that such a mooring site does not encroach upon the natural channel or channels established by the Harbor Committee. The assignment of a riparian mooring does not exclude the riparian owner from receiving additional mooring assignments as set forth in this section of the Harbor Ordinance.

c. Mooring sites shall be assigned by the Harbor Master on a "first come, first serve" basis to qualified applicants for mooring sites. Applicants shall be identified on a waiting list by date of receipt of the application. In the event that the Harbor Master receives more applications for mooring sites than there are mooring spaces, then the Harbor Master shall use the waiting list set forth below for mooring sites.

d. Commercial docks shall be allowed two moorings for transient use.

2. Transient Moorings. No less than ten percent (10%) of the total moorings shall be available for transient use. Moorings are available for limited periods as determined by the Harbor Master, but under no circumstances shall a transient vessel occupy a mooring for more than one week, except with the express written consent of the Harbor Master.

3. General priorities and waiting list.

- a. The Harbor Master shall establish waiting lists as follows:
 - 1) Non-commercial vessels

2) Commercial vessels

b. In the event that the Harbor Master receives more applications for mooring sites than there are mooring spaces, then the Harbor Master shall select the next available mooring site from the applicants on the waiting list, without regard to the residency of the applicant, except as specifically stated in the following provisions of this section. An annual fee of \$5.00 to maintain position on waiting list after initial application fee. Consistent with policies established by the Board of Selectmen, the Harbor Master shall designate certain mooring sites as commercial and certain other mooring sites as non-commercial.

c. Upper Pool - Bass Harbor - B Pool

Pleasure boats to be priority assigned to B Pool

d. Lower Pool - Bass Harbor - A Pool

Commercial boats to be priority assigned to A Pool.

E. Registration Non-Transferable. Unless prior written permission of the Harbor Master is obtained, mooring registrations are not transferable.

F. Sublet. No moorings, other than Town transient moorings, shall be sub-leased to any person, for the use of any vessel except the vessel set forth in the permit for that location

G. Notification of Vacancy. Any person (including riparian owners) not planning to use a mooring for more than three days must notify the Harbor Master. Vacant moorings may be assigned to transient vessels at the discretion of the Harbor Master.

H. Reassignment. Mooring locations not actually used 30 consecutive days in the preceding year, or for which an application is not received by March 1, may be reassigned with prior notice.

XIII. WHARVES, DOCKS, PIERS, FLOATS

A. Obstructions. No owner or master of any vessel, boat or watercraft of any kind shall permit or suffer his watercraft to be docked or moored in such a manner as to obstruct the free passage of other vessels going in and coming out of any wharf in Tremont.

B. Tying to Public Floats. No person shall leave any watercraft tied at the public floats in Tremont for any purpose, including fueling, discharging, or taking any supplies, for longer than 2 hours, during daylight hours or for longer than 4 hours after daylight, without the consent of the Harbor Master.

C. Placement of Cradles. No person shall leave or cause to be left any boat cradle on the Town launching ramp, harbor parking lot or any Town-owned facilities in Tremont without permission from the Harbor Master.

D. Blockage of Public Ramps/Facilities. No person shall place or cause to be placed any watercraft for repairs, trailers or vehicles on the Town landing, parking lot or other Town harbor facilities in Tremont in such a way as to block access by other users.

E. Boats Used as Tenders. Boats used as tenders may be allowed at the Town float with the permission of the Harbor Master provided they do not block access by other craft and are properly cared for by the owner.

F. Bait. No person shall leave on public facilities any fish or lobster bait so as to cause a public nuisance.

G. Storage. No person shall place or maintain on public facilities, barrels, boxes, gear, traps, pots or any other equipment for a longer period than is reasonably necessary for the prompt loading of same.

H. Removal of Vessels. The Harbor Master is hereby authorized, and it shall be his duty, to remove or cause to be removed any vessel, boat, watercraft, vehicle trailer or other obstruction as is in violation of the provisions of this Ordinance at the owner's expense.

I. Removal of Debris. No person using the public wharf, float or launching ramp shall leave any rubbish, trash or debris.

J. Reflectors Required on Lobster Cars. Reflectors or reflective tape a minimum of 4" in diameter or width, visible 360 degrees, shall be installed and maintained 4' above the water line on at least both ends of all lobster cars moored in the Inner Harbor.

K. Private Floats. Any private floats attached to the Town floats at the landing in Bass Harbor must be authorized by the Board of Selectmen and a formal agreement entered into specifying responsibilities and rental fees. Said rental fees to be used in administering the Harbor Management Ordinance.

XIV. OPERATION OF VESSELS

A. General. No person shall use or operate any watercraft in Tremont Harbors so as to cause danger, annoyance, disturbance or inconvenience to the public.

B. Reckless Operation. No person shall operate any motor or sail vessel in a reckless or negligent manner or while under the influence of intoxicants or drugs so as to endanger the life, limb or property of any person.

C. Navigation Injured. No person shall deposit, throw, sweep, or cause to be deposited or swept, from any vessel, wharf, dock or any other place, into the waters of Tremont Harbors or into the waters adjacent thereto, any gas, oil or bilge water containing same, ashes, dirt, stones, gravel, mud, logs, planks or any other substances tending to obstruct the navigation of said Harbors or waters adjacent thereto. This provision shall not apply to the washing down of commercial fishing boats and wharves.

D. Speed Limits. All water vessels must observe the posted speed limit within the harbors. Such speed limits shall be posted in a conspicuous place by the Harbor Master. In the absence of such limits, all water vessels must operate in a manner which does not create a wash and at a speed which does not endanger persons or property.

E. Abandonment. No person shall cause to be abandoned any boat, vessel, hulk, cradle, raft or any other possible obstruction on the shores within Tremont Harbors. Any such abandonment left within the confines of

Tremont Harbors and which has been unattended for a period of 90 days shall be deemed to be abandoned. The Harbor Master, upon his own complaint or the complaint of another shall order the last owner of record of any such abandoned boat, vessel, hulk, cradle or raft, if such owner is ascertainable, to remove same within 30 days. The Harbor Master shall cause its removal or destruction at the cost of said last owner of record. Any violation of the above shall be considered a misdemeanor and punishable as stipulated in the penalties section of this ordinance.

F. Oil Pollution. Except in case of emergency, imperiling life or property, or unavoidable accident, collision, or stranding, no person shall discharge, or suffer, or permit the discharge of oil by any method, means or manner into or upon the waters of Tremont Harbors.

G. Infected Vessels. Whenever a vessel arrives in Tremont Harbors having on board any person afflicted with a contagious disease or suspected of being afflicted with such disease, the master, commander, or pilot thereof, and the Health Officer of the Town of Tremont, shall comply with the provisions of the Revised Statutes of Maine.

XV. DEFINITIONS. For the purposes of this Ordinance, the definitions of all words, terms or expressions used shall be as defined and utilized by the U. S. Coast Guard navigation rules with the following additions:

A. Bass Harbor. Bass Harbor shall mean all waters under the jurisdiction of the Town of Tremont in which the tide ebbs and flows, north of a straight line drawn from the southern most point of Lopaus Point to the southern most point of Bass Harbor Head. Whether or not the ordinary or mean high tide line of the Atlantic Ocean has been fixed by ordinance, statute, court action or otherwise and whether or not the lands lying under said tidal waters are privately or publicly owned.

For the purposes of this Ordinance, Bass Harbor shall be further divided into the Inner and Outer Harbors, and the Inner Harbor divided into the Upper Pool and Lower Pools, as defined herein.

B. Commercial Fishing Vessel

1. Full-Time: A full-time commercial fishing vessel is a vessel which is used to harvest marine resources which provide a major portion of the vessel user's income.
2. Part-Time: A part-time commercial fishing vessel is a vessel which is used to harvest marine resources which provide a significant portion of the vessel user's income.

C. Commercial Passenger Vessel. A commercial passenger vessel shall mean a vessel which is licensed by the U. S. Coast Guard to carry passengers.

D. Commercial Vessel. A commercial vessel shall mean any vessel not used as a commercial fishing or commercial passenger vessel which is used in activities which produce a significant portion of the vessel user's income.

E. Entrance Channel. Shall mean an access passageway through natural obstructions to navigation or a passageway defined by regulation to provide safe access through moored vessels to some particular point of

interest such as a pier or ramp.

F. Inner Harbor - Bass Harbor. Shall mean any tidal waters under the jurisdiction of the Town of Tremont north of straight East-West line drawn from the southwest end of the Underwood Dock to the eastern most point of Try House Point.

G. Lower Pools - Bass Harbor. Shall mean the existing and any future dredged areas located north of the line between the Outer and Inner Harbors and south of the Upper Pool.

H. Mooring. Shall mean either:

1. A place where buoyant vessels are secured other than to a pier;
2. The equipment used to secure a vessel; or
3. The process of securing a vessel other than by anchoring.

I. Open-to-all-on-equal terms. Shall mean Federal navigation projects must be managed in the general public interest and must be accessible and available to all on equal terms.

1. The Town will make no arbitrary distinction or requirement of any kind in allocating use of the project and ancillary facilities and services to the public except as may be consistent with the purpose for which the project was constructed.

2. The Town will not impose arbitrary fees or arbitrary variations in fees among users. The cost of providing necessary management and ancillary facilities and services may be offset through equitable user fees based on the actual cost incurred.

J. Federal Project Area. Shall mean those areas as shown on map designed by John Garabedian Varoujan with a CADD No: BASS40,DGN furnished by the Army Corps of Engineers and located at the Tremont Town Office.

K. Outer Harbor - Bass Harbor. Shall mean all tidal waters under the jurisdiction of the Town of Tremont between the line which separates the Inner and Outer Harbor and the line which delineates the outer limits of Bass Harbor.

L. Pleasure Vessel. A pleasure vessel is any vessel used for activities which do not produce a significant portion of the vessel user's income.

M. Resident Vessel. A resident vessel is any vessel for which Tremont Boat Tax is paid.

N. Riparian Owner. A riparian owner is any person who owns land abutting on the boundaries of Tremont Harbors.

O. To Anchor. Shall mean to secure a vessel to the bottom within a body of water by dropping an anchor or anchors or other ground tackle.

- P. Upper Pool - Bass Harbor.** Shall mean the existing dredged area running approximately southwest and northeast north of Nun Buoy Number Six.
- Q. Vessel.** The word vessel as used herein shall include boats of all sizes powered by sail, machinery or hand, scows, dredges, lobster, crab and shellfish cars, and craft of any kind.
- R. Waterway.** Shall mean any water area providing access from one place to another, principally a water area providing a regular route for water traffic.

XVI. ADMINISTRATION

- A. Enforcement.** It shall be the duty of the Harbor Master to enforce the provisions of this Ordinance. If the Harbor Master shall find that any provision of this Ordinance is being violated, he shall notify, in writing, the persons responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. A copy of every such notice shall be maintained as a permanent record.
- B. Obedience to Orders.** No person shall fail to observe any lawful order of the Harbor Master with reference to the navigation and disposal of his watercraft within the limits of Tremont Harbors. The Harbor Master may arrest and deliver to District Court or the Town Constable any person committing an assault upon him or another person acting under his authority as provided by the Revised Statutes of Maine.
- C. Legal Action.** When notification of violation does not result in the correction of the violation or nuisance condition, the Selectmen, upon complaint from the Harbor Master and/or the Harbor Committee, are hereby authorized and directed to institute any and all action and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town.
- D. Penalties.** Any person who violates any provision of this Ordinance shall be guilty of a misdemeanor and subject to a fine not less than \$25 nor more than \$500 for each violation. A repetition or continuation of any violation of any provisions of this Ordinance on successive days after notification by the Harbor Master constitutes a separate offense for each day during any portion of which such violation is committed, continued or permitted.
- E. Suspension or Revocation of Permits.** All permits granted under the authority of this Ordinance shall be valid only for such period as specified and permits of unqualified duration of validity shall not be granted. A violation of the provisions of this Ordinance by any permittee shall be grounds for suspension or revocation of such permit and permits, said suspension or revocation to be subject to review by the Harbor Committee.
- F. Liability.** Any person using the facilities within the limits of a harbor or maritime facility shall assume all risk of damage or loss of his property and the Town of Tremont assumes no risk on account of fire, theft, Act of God, or damages of any kind to vessels within said harbors or

maritime facility.